

AMENDED IN SENATE APRIL 19, 2005

AMENDED IN SENATE MARCH 29, 2005

**SENATE BILL**

**No. 518**

**Introduced by Senator Kehoe**

February 18, 2005

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~~An act to amend Sections 790.03, 2051.5, 2071, 10089.82, 14028, 14029, 14035, 14062, 15011, 15027, 15027.1, and 15040 15033, 15036, 15040, 15056, and 15059 of, and to add Sections 395, 14028.5, 14061.5, 15018.5, 15027.5, 15028.7, and 15039.5 to, and to add Chapter 11.7 (commencing with Section 679.95) to Part 1 of Division 1 of, and to repeal Section 15014 of, the Insurance Code, relating to homeowners' insurance.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 518, as amended, Kehoe. Homeowners' insurance: insurance adjusters.

Existing law generally regulates *insurance, including* homeowners' and other insurance relating to real and personal property.

*This bill would require an insurer to provide, free of charge, a complete copy of an insured's current insurance policy within 21 calendar days of receipt of a request from the insured.*

~~This~~

The bill would require each insurer insuring real and personal property to submit to the Insurance Commissioner biannually specified information regarding the insurer's loss experience, and would set forth monetary penalties for violating this requirement.

~~Existing law prohibits specified actions defined as unfair methods of competition and unfair and deceptive acts or practices in the business of insurance.~~

~~This bill would add failing to provide, free of charge, within a certain period after a request from the insured, a complete copy of an insured's insurance policy.~~

Existing law prohibits an insurer, with respect to certain homeowners' insurance policies, from placing upon an insured a time limit of less than 12 months from the date that the first payment toward the actual cash value is made in order for the insured to collect the full replacement cost of the loss, subject to the policy limit.

This bill would prohibit an insurer, in the event of a loss relating to a state of emergency, as defined, from placing upon an insured a time limit of less than 24 months from the date of loss for coverage for additional living expenses.

Existing law prohibits a suit or action for the recovery of a claim under a homeowners' insurance policy unless commenced within 12 months after inception of the loss.

This bill would change that period to 2 years.

*Existing law requires an insurer under a homeowners' insurance policy to provide certain disclosures to an insured. Existing law allows the commissioner, with respect to one of these disclosures, to modify that disclosure only upon the request of an insurer.*

*This bill would apply this limitation on modification to other disclosures, as specified.*

*Existing law requires an applicant for a license to act as a public insurance adjuster to meet specified requirements, including passing a licensing examination and posting a surety bond or cash in the sum of \$5,000. Existing law provides that the examination requirement is waived for specified applicants.*

*This bill would raise the required amount of the bond or cash to \$50,000. It would delete the provision providing for waiver of the examination requirement for certain applicants.*

Existing law sets forth the grounds for denying, suspending, or revoking a license to act as an insurance adjuster or public insurance adjuster.

This bill would make specified changes to the grounds for denying, suspending, or revoking those licenses.

Existing law requires that a contract between a public insurance adjuster and a client include specified provisions and information. ~~Existing law allows a client to cancel a contract of this type within 3 business days after signing the contract.~~

This bill would require that certain additional information relating to the insured, the insurer, and the adjuster be included in such a contract, and would prohibit a contract of this type from containing specified provisions. It would require that a public insurance adjuster provide the client with a written disclosure prior to the signing of the contract, as specified. The bill would ~~allow the client to cancel the contract within 10 business days of signing the contract, and would~~ make certain changes to the duties owed by the adjuster to the client.

The bill would impose additional regulatory requirements on public insurance adjusters relating to disclosures and receiving money on behalf of an insured.

*Existing law allows an expired public adjuster's license or branch office certificate to be renewed within 5 years of its expiration if certain requirements are met.*

*This bill would instead provide that an expired license or certificate may be renewed within one year of its expiration if those conditions are met.*

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 395 is added to the Insurance Code, to  
2     read:

3     395. An insurer shall provide, free of charge, a complete copy  
4     of an insured's current insurance policy within 21 calendar days  
5     of receipt of a request from the insured. The insurance policy  
6     provided to the insured shall include the policy declarations  
7     page, all endorsements and riders, and a clear statement of  
8     policy limits for each coverage and the applicable deductibles for  
9     each coverage.

10    ~~SECTION 1.~~

11    SEC. 2. Chapter 11.7 (commencing with Section 679.95) is  
12    added to Part 1 of Division 1 of the Insurance Code, to read:

13  
14           CHAPTER 11.7. REPORTING REQUIREMENTS FOR CERTAIN  
15                                 PROPERTY INSURERS

16  
17     679.95. (a) This section applies to all admitted insurers  
18     licensed to issue and insuring real or personal property in the

1 state, including California Fair Access to Insurance  
2 Requirements (FAIR) Plan policies.

3 (b) Each insurer subject to this section shall submit biannually  
4 a record of loss experience, per exposure, for each geographic  
5 area, including that statistical data by ZIP Code area, to the  
6 commissioner for examination. Loss experience shall include  
7 separate loss data for each type of coverage *as specified by the*  
8 *commissioner*. An insurer may satisfy its obligation to report  
9 statistical data for each type of coverage by providing its loss  
10 experience data to a rating or advisory organization for  
11 submission to the commissioner. This data may be made  
12 available to the public by the commissioner annually after  
13 examination. The commissioner shall release the data only in  
14 aggregate form by ZIP Code. Except as otherwise provided in  
15 this section, all information reported to the department pursuant  
16 to this section shall be confidential.

17 (c) A record of loss experience for the geographic area shall  
18 include the breakdown of actual loss experience statistics per  
19 exposure by ZIP Code area, as designated by the United States  
20 Postal Service, within each geographic area.

21 (d) Any person or entity that fails to comply with a data call  
22 required by the department pursuant to this section, or with a  
23 final order of the commissioner under this section, shall be liable  
24 to the state for a civil penalty in an amount not exceeding five  
25 thousand dollars (\$5,000) for each 30-day period that the person  
26 or entity is not in compliance, unless the failure to comply is  
27 willful, in which case the civil penalty shall be in an amount not  
28 to exceed ten thousand dollars (\$10,000) for each 30-day period  
29 that the person or entity is not in compliance, not to exceed an  
30 aggregate amount of one hundred thousand dollars (\$100,000).  
31 The commissioner shall collect the penalty and may bring an  
32 action in the name of the people of the State of California to  
33 enforce collection. The penalties imposed under this section shall  
34 be in addition to any other penalties allowed by law.

35 ~~SEC. 2. Section 790.03 of the Insurance Code is amended to~~  
36 ~~read:~~

37 ~~790.03. The following are hereby defined as unfair methods~~  
38 ~~of competition and unfair and deceptive acts or practices in the~~  
39 ~~business of insurance.~~

1     ~~(a) Making, issuing, circulating, or causing to be made, issued~~  
2     ~~or circulated, any estimate, illustration, circular or statement~~  
3     ~~misrepresenting the terms of any policy issued or to be issued or~~  
4     ~~the benefits or advantages promised thereby or the dividends or~~  
5     ~~share of the surplus to be received thereon, or making any false~~  
6     ~~or misleading statement as to the dividends or share of surplus~~  
7     ~~previously paid on similar policies, or making any misleading~~  
8     ~~representation or any misrepresentation as to the financial~~  
9     ~~condition of any insurer, or as to the legal reserve system upon~~  
10    ~~which any life insurer operates, or using any name or title of any~~  
11    ~~policy or class of policies misrepresenting the true nature thereof,~~  
12    ~~or making any misrepresentation to any policyholder insured in~~  
13    ~~any company for the purpose of inducing or tending to induce the~~  
14    ~~policyholder to lapse, forfeit, or surrender his or her insurance.~~

15    ~~(b) Making or disseminating or causing to be made or~~  
16    ~~disseminated before the public in this state, in any newspaper or~~  
17    ~~other publication, or any advertising device, or by public outcry~~  
18    ~~or proclamation, or in any other manner or means whatsoever,~~  
19    ~~any statement containing any assertion, representation or~~  
20    ~~statement with respect to the business of insurance or with~~  
21    ~~respect to any person in the conduct of his or her insurance~~  
22    ~~business, which is untrue, deceptive, or misleading, and which is~~  
23    ~~known, or which by the exercise of reasonable care should be~~  
24    ~~known, to be untrue, deceptive, or misleading.~~

25    ~~(c) Entering into any agreement to commit, or by any~~  
26    ~~concerted action committing, any act of boycott, coercion or~~  
27    ~~intimidation resulting in or tending to result in unreasonable~~  
28    ~~restraint of, or monopoly in, the business of insurance.~~

29    ~~(d) Filing with any supervisory or other public official, or~~  
30    ~~making, publishing, disseminating, circulating, or delivering to~~  
31    ~~any person, or placing before the public, or causing directly or~~  
32    ~~indirectly, to be made, published, disseminated, circulated,~~  
33    ~~delivered to any person, or placed before the public any false~~  
34    ~~statement of financial condition of an insurer with intent to~~  
35    ~~deceive.~~

36    ~~(e) Making any false entry in any book, report, or statement of~~  
37    ~~any insurer with intent to deceive any agent or examiner lawfully~~  
38    ~~appointed to examine into its condition or into any of its affairs,~~  
39    ~~or any public official to whom the insurer is required by law to~~  
40    ~~report, or who has authority by law to examine into its condition~~

1 or into any of its affairs, or, with like intent, willfully omitting to  
2 make a true entry of any material fact pertaining to the business  
3 of the insurer in any book, report, or statement of the insurer.

4 (f) Making or permitting any unfair discrimination between  
5 individuals of the same class and equal expectation of life in the  
6 rates charged for any contract of life insurance or of life annuity  
7 or in the dividends or other benefits payable thereon, or in any  
8 other of the terms and conditions of the contract.

9 This subdivision shall be interpreted, for any contract of  
10 ordinary life insurance or individual life annuity applied for and  
11 issued on or after January 1, 1981, to require differentials based  
12 upon the sex of the individual insured or annuitant in the rates or  
13 dividends or benefits, or any combination thereof. This  
14 requirement is satisfied if those differentials are substantially  
15 supported by valid pertinent data segregated by sex, including,  
16 but not necessarily limited to, mortality data segregated by sex.

17 However, for any contract of ordinary life insurance or  
18 individual life annuity applied for and issued on or after January  
19 1, 1981, but before the compliance date, in lieu of those  
20 differentials based on data segregated by sex, rates, or dividends  
21 or benefits, or any combination thereof, for ordinary life  
22 insurance or individual life annuity on a female life may be  
23 calculated as follows: (a) according to an age not less than three  
24 years nor more than six years younger than the actual age of the  
25 female insured or female annuitant, in the case of a contract of  
26 ordinary life insurance with a face value greater than five  
27 thousand dollars (\$5,000) or a contract of individual life annuity;  
28 and (b) according to an age not more than six years younger than  
29 the actual age of the female insured, in the case of a contract of  
30 ordinary life insurance with a face value of five thousand dollars  
31 (\$5,000) or less. "Compliance date" as used in this paragraph  
32 shall mean the date or dates established as the operative date or  
33 dates by future amendments to this code directing and  
34 authorizing life insurers to use a mortality table containing  
35 mortality data segregated by sex for the calculation of adjusted  
36 premiums and present values for nonforfeiture benefits and  
37 valuation reserves as specified in Sections 10163.5 and 10489.2  
38 or successor sections.

39 Notwithstanding the provisions of this subdivision, sex-based  
40 differentials in rates or dividends or benefits, or any combination

thereof, shall not be required for (1) any contract of life insurance or life annuity issued pursuant to arrangements which may be considered terms, conditions, or privileges of employment as these terms are used in Title VII of the Civil Rights Act of 1964 (Public Law 88-352), as amended, and (2) tax-sheltered annuities for employees of public schools or of tax-exempt organizations described in Section 501(c)(3) of the Internal Revenue Code.

(g) Making or disseminating, or causing to be made or disseminated, before the public in this state, in any newspaper or other publication, or any other advertising device, or by public outcry or proclamation, or in any other manner or means whatever, whether directly or by implication, any statement that a named insurer, or named insurers, are members of the California Insurance Guarantee Association, or insured against insolvency as defined in Section 119.5. This subdivision shall not be interpreted to prohibit any activity of the California Insurance Guarantee Association or the commissioner authorized, directly or by implication, by Article 14.2 (commencing with Section 1063).

(h) Knowingly committing or performing with such frequency as to indicate a general business practice any of the following unfair claims settlement practices:

(1) Misrepresenting to claimants pertinent facts or insurance policy provisions relating to any coverages at issue.

(2) Failing to acknowledge and act reasonably promptly upon communications with respect to claims arising under insurance policies.

(3) Failing to adopt and implement reasonable standards for the prompt investigation and processing of claims arising under insurance policies.

(4) Failing to affirm or deny coverage of claims within a reasonable time after proof of loss requirements have been completed and submitted by the insured.

(5) Not attempting in good faith to effectuate prompt, fair, and equitable settlements of claims in which liability has become reasonably clear.

(6) Compelling insureds to institute litigation to recover amounts due under an insurance policy by offering substantially less than the amounts ultimately recovered in actions brought by

1 the insureds, when the insureds have made claims for amounts  
2 reasonably similar to the amounts ultimately recovered.

3 ~~(7) Attempting to settle a claim by an insured for less than the~~  
4 ~~amount to which a reasonable person would have believed he or~~  
5 ~~she was entitled by reference to written or printed advertising~~  
6 ~~material accompanying or made part of an application.~~

7 ~~(8) Attempting to settle claims on the basis of an application~~  
8 ~~which was altered without notice to, or knowledge or consent of,~~  
9 ~~the insured, his or her representative, agent, or broker.~~

10 ~~(9) Failing, after payment of a claim, to inform insureds or~~  
11 ~~beneficiaries, upon request by them, of the coverage under which~~  
12 ~~payment has been made.~~

13 ~~(10) Making known to insureds or claimants a practice of the~~  
14 ~~insurer of appealing from arbitration awards in favor of insureds~~  
15 ~~or claimants for the purpose of compelling them to accept~~  
16 ~~settlements or compromises less than the amount awarded in~~  
17 ~~arbitration.~~

18 ~~(11) Delaying the investigation or payment of claims by~~  
19 ~~requiring an insured, claimant, or the physician of either, to~~  
20 ~~submit a preliminary claim report, and then requiring the~~  
21 ~~subsequent submission of formal proof of loss forms, both of~~  
22 ~~which submissions contain substantially the same information.~~

23 ~~(12) Failing to settle claims promptly, where liability has~~  
24 ~~become apparent, under one portion of the insurance policy~~  
25 ~~coverage in order to influence settlements under other portions of~~  
26 ~~the insurance policy coverage.~~

27 ~~(13) Failing to provide promptly a reasonable explanation of~~  
28 ~~the basis relied on in the insurance policy, in relation to the facts~~  
29 ~~or applicable law, for the denial of a claim or for the offer of a~~  
30 ~~compromise settlement.~~

31 ~~(14) Directly advising a claimant not to obtain the services of~~  
32 ~~an attorney.~~

33 ~~(15) Misleading a claimant as to the applicable statute of~~  
34 ~~limitations.~~

35 ~~(16) Delaying the payment or provision of hospital, medical,~~  
36 ~~or surgical benefits for services provided with respect to acquired~~  
37 ~~immune deficiency syndrome or AIDS-related complex for more~~  
38 ~~than 60 days after the insurer has received a claim for those~~  
39 ~~benefits, where the delay in claim payment is for the purpose of~~  
40 ~~investigating whether the condition preexisted the coverage.~~



1 However, this 60-day period shall not include any time during  
2 which the insurer is awaiting a response for relevant medical  
3 information from a health care provider.

4 (i) ~~Canceled or refusing to renew a policy in violation of~~  
5 ~~Section 676.10.~~

6 (j) ~~Failing to provide, free of charge, within 15 calendar days~~  
7 ~~of receipt of a request from the insured, a complete copy of an~~  
8 ~~insured's insurance policy, including the policy declarations~~  
9 ~~page, all endorsements and riders, and a clear statement of policy~~  
10 ~~limits per coverage and applicable deductibles per coverage.~~

11 SEC. 3. Section 2051.5 of the Insurance Code is amended to  
12 read:

13 2051.5. (a) Under an open policy that requires payment of  
14 the replacement cost for a loss, the measure of indemnity is the  
15 amount that it would cost the insured to repair, rebuild, or replace  
16 the thing lost or injured, without a deduction for physical  
17 depreciation, or the policy limit, whichever is less.

18 If the policy requires the insured to repair, rebuild, or replace  
19 the damaged property in order to collect the full replacement  
20 cost, the insurer shall pay the actual cash value of the damaged  
21 property, as defined in Section 2051, until the damaged property  
22 is repaired, rebuilt, or replaced. Once the property is repaired,  
23 rebuilt, or replaced, the insurer shall pay the difference between  
24 the actual cash value payment made and the full replacement cost  
25 reasonably paid to replace the damaged property, up to the limits  
26 stated in the policy.

27 (b) (1) Except as provided in paragraph (2), no time limit of  
28 less than 12 months from the date that the first payment toward  
29 the actual cash value is made shall be placed upon an insured in  
30 order to collect the full replacement cost of the loss, subject to  
31 the policy limit. Additional extensions of six months shall be  
32 provided to policyholders for good cause. In the event of a loss  
33 relating to a "state of emergency," as defined in Section 8558 of  
34 the Government Code, no time limit of less than 24 months from  
35 the date that the first payment toward the actual cash value is  
36 made shall be placed upon the insured in order to collect the full  
37 replacement cost of the loss, subject to the policy limit. Nothing  
38 in this section shall prohibit the insurer from allowing the insured  
39 additional time to collect the full replacement cost.

(2) In the event of a loss relating to a state of emergency, as defined in Section 8558 of the Government Code, no time limit of less than 24 months from the date of loss shall be placed upon the insured for coverage for additional living expenses.

(c) In the event of a total loss of the insured structure, no policy issued or delivered in this state may contain a provision that limits or denies payment of the replacement cost in the event the insured decides to rebuild or replace the property at a location other than the insured premises. However, the measure of indemnity shall be based upon the replacement cost of the insured property and shall not be based upon the cost to repair, rebuild, or replace at a location other than the insured premises.

(d) Nothing in this section shall prohibit an insurer from restricting payment in cases of suspected fraud.

(e) The changes made to this section by the act that added this subdivision shall be implemented by an insurer on and after the effective date of that act, except that an insurer shall not be required to modify policy forms to be consistent with those changes until July 1, 2005. On and after July 1, 2005, all policy forms used by an insurer shall reflect those changes.

SEC. 4. Section 2071 of the Insurance Code is amended to read:

2071. (a) The following is adopted as the standard form of fire insurance policy for this state:

California Standard Form Fire Insurance Policy

No.

[Space for insertion of name of company or companies issuing the policy and other matter permitted to be stated at the head of the policy.]

[Space for listing amounts of insurance, rates and premiums for the basic coverages insured under the standard form of policy and for additional coverages or perils insured under endorsements attached.]

In consideration of the provisions and stipulations herein or added hereto and of \_\_\_\_\_ dollars premium this company, for the term of \_\_\_\_\_

from the \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_  
to the \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_

At 12:01 a.m.,  
standard time,

at location of property involved, to an amount not exceeding \_\_\_\_\_ dollars, does insure \_\_\_\_\_ and legal representatives, to the extent of the actual cash value of the property at the time of loss, but not exceeding the amount which it would cost to repair or replace the property with material of like kind and quality within a reasonable time after the loss, without allowance for any increased cost of repair or reconstruction by reason of any ordinance or law regulating construction or repair, and without compensation for loss resulting from interruption of business or manufacture, nor in any event for more than the interest of the insured, against all LOSS BY FIRE, LIGHTNING AND BY REMOVAL FROM PREMISES ENDANGERED BY THE PERILS INSURED AGAINST IN THIS POLICY, EXCEPT AS HEREINAFTER PROVIDED, to the property described hereinafter while located or contained as described in this policy, or pro rata for five days at each proper place to which any of the property shall necessarily be removed for preservation from the perils insured against in this policy, but not elsewhere.

Assignment of this policy shall not be valid except with the written consent of this company.

This policy is made and accepted subject to the foregoing provisions and stipulations and those hereinafter stated, which are hereby made a part of this policy, together with any other provisions, stipulations and agreements as may be added hereto, as provided in this policy.

IN WITNESS WHEREOF, this company has executed and attested these presents; but this policy shall not be valid unless countersigned by the duly authorized agent of this company at

Secretary.	President.
Countersigned this _____ day of _____, 20 _____	_____ Agent

Concealment, fraud

This entire policy shall be void if, whether before or after a loss, the insured has willfully concealed or misrepresented any material fact or circumstance concerning this insurance or the subject thereof, or the interest of the insured therein, or in case of any fraud or false swearing by the insured relating thereto.

1                   Uninsurable and excepted property

2     This policy shall not cover accounts, bills, currency, deeds,  
3 evidences of debt, money or securities; nor, unless specifically  
4 named hereon in writing, bullion or manuscripts.

5  
6                   Perils not included

7     This company shall not be liable for loss by fire or other perils  
8 insured against in this policy caused, directly or indirectly, by:  
9 (a) enemy attack by armed forces, including action taken by  
10 military, naval or air forces in resisting an actual or an  
11 immediately impending enemy attack; (b) invasion; (c)  
12 insurrection; (d) rebellion; (e) revolution; (f) civil war; (g)  
13 usurped power; (h) order of any civil authority except acts of  
14 destruction at the time of and for the purpose of preventing the  
15 spread of fire, provided that the fire did not originate from any of  
16 the perils excluded by this policy; (i) neglect of the insured to use  
17 all reasonable means to save and preserve the property at and  
18 after a loss, or when the property is endangered by fire in  
19 neighboring premises; (j) nor shall this company be liable for  
20 loss by theft.

21  
22                   Other insurance

23     Other insurance may be prohibited or the amount of insurance  
24 may be limited by endorsement attached hereto.

25  
26                   Conditions suspending or restricting insurance

27     Unless otherwise provided in writing added hereto this  
28 company shall not be liable for loss occurring (a) while the  
29 hazard is increased by any means within the control or  
30 knowledge of the insured; or (b) while a described building,  
31 whether intended for occupancy by owner or tenant, is vacant or  
32 unoccupied beyond a period of 60 consecutive days; or (c) as a  
33 result of explosion or riot, unless fire ensues, and in that event for  
34 loss by fire only.

35  
36                   Other perils or subjects

37     Any other peril to be insured against or subject of insurance to  
38 be covered in this policy shall be by endorsement in writing  
39 hereon or added hereto.

Added provisions

The extent of the application of insurance under this policy and of the contribution to be made by this company in case of loss, and any other provision or agreement not inconsistent with the provisions of this policy, may be provided for in writing added hereto, but no provision may be waived except such as by the terms of this policy or by statute is subject to change.

Waiver provisions

No permission affecting this insurance shall exist, or waiver of any provision be valid, unless granted herein or expressed in writing added hereto. No provision, stipulation or forfeiture shall be held to be waived by any requirement or proceeding on the part of this company relating to appraisal or to any examination provided for herein.

Cancellation of policy

This policy shall be canceled at any time at the request of the insured, in which case this company shall, upon demand and surrender of this policy, refund the excess of paid premium above the customary short rates for the expired time. This policy may be canceled at any time by this company by giving to the insured a 20 days' written notice of cancellation with or without tender of the excess of paid premium above the pro rata premium for the expired time, which excess, if not tendered, shall be refunded on demand. Notice of cancellation shall state that said excess premium (if not tendered) will be refunded on demand. If the reason for cancellation is nonpayment of premium, this policy may be canceled by this company by giving to the insured a 10 days' written notice of cancellation.

Mortgagee interests and obligations

If loss hereunder is made payable, in whole or in part, to a designated mortgagee not named herein as the insured, the interest in this policy may be canceled by giving to the mortgagee a 10 days' written notice of cancellation.

If the insured fails to render proof of loss the mortgagee, upon notice, shall render proof of loss in the form herein specified within 60 days thereafter and shall be subject to the provisions hereof relating to appraisal and time of payment and of bringing

1 suit. If this company shall claim that no liability existed as to the  
2 mortgagor or owner, it shall, to the extent of payment of loss to  
3 the mortgagee, be subrogated to all the mortgagee's rights of  
4 recovery, but without impairing mortgagee's right to sue; or it  
5 may pay off the mortgage debt and require an assignment thereof  
6 and of the mortgage. Other provisions relating to the interests and  
7 obligations of the mortgagee may be added hereto by agreement  
8 in writing.

9  
10 Pro rata liability

11 This company shall not be liable for a greater proportion of any  
12 loss than the amount hereby insured shall bear to the whole  
13 insurance covering the property against the peril involved,  
14 whether collectible or not.

15  
16 Requirements in case loss occurs

17 The insured shall give written notice to this company of any  
18 loss without unnecessary delay, protect the property from further  
19 damage, forthwith separate the damaged and undamaged  
20 personal property, put it in the best possible order, furnish a  
21 complete inventory of the destroyed, damaged and undamaged  
22 property, showing in detail quantities, costs, actual cash value  
23 and amount of loss claimed; and within 60 days after the loss,  
24 unless the time is extended in writing by this company, the  
25 insured shall render to this company a proof of loss, signed and  
26 sworn to by the insured, stating the knowledge and belief of the  
27 insured as to the following: the time and origin of the loss, the  
28 interest of the insured and of all others in the property, the actual  
29 cash value of each item thereof and the amount of loss thereto, all  
30 encumbrances thereon, all other contracts of insurance, whether  
31 valid or not, covering any of said property, any changes in the  
32 title, use, occupation, location, possession or exposures of said  
33 property since the issuing of this policy, by whom and for what  
34 purpose any building herein described and the several parts  
35 thereof were occupied at the time of loss and whether or not it  
36 then stood on leased ground, and shall furnish a copy of all the  
37 descriptions and schedules in all policies and, if required and  
38 obtainable, verified plans and specifications of any building,  
39 fixtures or machinery destroyed or damaged.

1 The insured, as often as may be reasonably required and  
2 subject to the provisions of Section 2071.1, shall exhibit to any  
3 person designated by this company all that remains of any  
4 property herein described, and submit to examinations under oath  
5 by any person named by this company, and subscribe the same;  
6 and, as often as may be reasonably required, shall produce for  
7 examinations all books of account, bills, invoices, and other  
8 vouchers, or certified copies thereof if the originals be lost, at any  
9 reasonable time and place as may be designated by this company  
10 or its representative, and shall permit extracts and copies thereof  
11 to be made. The insurer shall inform the insured that tax returns  
12 are privileged against disclosure under applicable law but may be  
13 necessary to process or determine the claim.

14 The insurer shall notify every claimant that they may obtain,  
15 upon request, copies of claim-related documents. For purposes of  
16 this section, “claim-related documents” means all documents that  
17 relate to the evaluation of damages, including, but not limited to,  
18 repair and replacement estimates and bids, appraisals, scopes of  
19 loss, drawings, plans, reports, third-party findings on the amount  
20 of loss, covered damages, and cost of repairs, and all other  
21 valuation, measurement, and loss adjustment calculations of the  
22 amount of loss, covered damage, and cost of repairs. However,  
23 attorney work product and attorney-client privileged documents,  
24 and documents that indicate fraud by the insured or that contain  
25 medically privileged information, are excluded from the  
26 documents an insurer is required to provide pursuant to this  
27 section to a claimant. Within 15 calendar days after receiving a  
28 request from an insured for claim-related documents, the insurer  
29 shall provide the insured with copies of all claim-related  
30 documents, except those excluded by this section. Nothing in this  
31 section shall be construed to affect existing litigation discovery  
32 rights.

#### 34 Appraisal

35 In case the insured and this company shall fail to agree as to  
36 the actual cash value or the amount of loss, then, on the written  
37 request of either, each shall select a competent and disinterested  
38 appraiser and notify the other of the appraiser selected within 20  
39 days of the request. Where the request is accepted, the appraisers  
40 shall first select a competent and disinterested umpire; and failing

1 for 15 days to agree upon the umpire, then, on request of the  
2 insured or this company, the umpire shall be selected by a judge  
3 of a court of record in the state in which the property covered is  
4 located. Appraisal proceedings are informal unless the insured  
5 and this company mutually agree otherwise. For purposes of this  
6 section, “informal” means that no formal discovery shall be  
7 conducted, including depositions, interrogatories, requests for  
8 admission, or other forms of formal civil discovery, no formal  
9 rules of evidence shall be applied, and no court reporter shall be  
10 used for the proceedings. The appraisers shall then appraise the  
11 loss, stating separately actual cash value and loss to each item;  
12 and, failing to agree, shall submit their differences, only, to the  
13 umpire. An award in writing, so itemized, of any two when filed  
14 with this company shall determine the amount of actual cash  
15 value and loss. Each appraiser shall be paid by the party selecting  
16 him or her and the expenses of appraisal and umpire shall be paid  
17 by the parties equally. In the event of a government-declared  
18 disaster, as defined in the Government Code, appraisal may be  
19 requested by either the insured or this company but shall not be  
20 compelled.

#### 21 22 Adjusters

23 If, within a six-month period, the company assigns a third or  
24 subsequent adjuster to be primarily responsible for a claim, the  
25 insurer, in a timely manner, shall provide the insured with a  
26 written status report. For purposes of this section, a written status  
27 report shall include a summary of any decisions or actions that  
28 are substantially related to the disposition of a claim, including,  
29 but not limited to, the amount of losses to structures or contents,  
30 the retention or consultation of design or construction  
31 professionals, the amount of coverage for losses to structures or  
32 contents and all items of dispute.

#### 33 34 Company’s options

35 It shall be optional with this company to take all, or any part, of  
36 the property at the agreed or appraised value, and also to repair,  
37 rebuild or replace the property destroyed or damaged with other  
38 of like kind and quality within a reasonable time, on giving  
39 notice of its intention so to do within 30 days after the receipt of  
40 the proof of loss herein required.



Abandonment

There can be no abandonment to this company of any property.

When loss payable

The amount of loss for which this company may be liable shall be payable 60 days after proof of loss, as herein provided, is received by this company and ascertainment of the loss is made either by agreement between the insured and this company expressed in writing or by the filing with this company of an award as herein provided.

Suit

No suit or action on this policy for the recovery of any claim shall be sustainable in any court of law or equity unless all the requirements of this policy shall have been complied with, and unless commenced within two years next after inception of the loss.

Subrogation

This company may require from the insured an assignment of all right of recovery against any party for loss to the extent that payment therefor is made by this company.

(b) Any amendments to this section by the enactment of Senate Bill 658 of the 2001-02 Regular Session shall govern a policy utilizing the form provided in subdivision (a) when that policy is originated or renewed on and after January 1, 2002.

(c) The amendments to this section made by the act adding this subdivision shall govern a policy utilizing the form provided in subdivision (a) when that policy is originated or renewed on and after January 1, 2004.

SEC. 5. Section 10089.82 of the Insurance Code is amended to read:

10089.82. (a) An insured may not be required to use the department's mediation process. An insurer may not be required to use the department's mediation process, except as provided in Section 10089.75.

(b) Neither the insurer nor the insured is required to accept an agreement proposed during the mediation.

1 (c) If the parties agree to a settlement agreement, the insured  
2 will have three business days to rescind the agreement.  
3 Notwithstanding Chapter 2 (commencing with Section 1115) of  
4 Division 9 of the Evidence Code, if the insured rescinds the  
5 agreement, it may not be admitted in evidence or disclosed unless  
6 the insured and all other parties to the agreement expressly agree  
7 to its disclosure. If the agreement is not rescinded by the insured,  
8 it is binding on the insured and the insurer, and acts as a release  
9 of all specific claims for damages known at the time of the  
10 mediation presented and agreed upon in the mediation  
11 conference. If counsel for the insured is present at the mediation  
12 conference and a settlement is agreed upon that is signed by the  
13 insured's counsel, the agreement is immediately binding on the  
14 insured and may not be rescinded.

15 (d) This section does not affect rights under existing law for  
16 claims for damage that were undetected at the time of the  
17 settlement conference.

18 (e) All settlements reached as a result of department-referred  
19 mediation shall address only those issues raised for the purpose  
20 of resolution. Settlements and any accompanying releases are not  
21 effective to settle or resolve any claim or dispute not addressed  
22 by the mediator for the purpose of resolution, nor any claim that  
23 the insured may have related to the insurer's conduct in handling  
24 the claim. However, for mediations conducted pursuant to  
25 subdivision (b) of Section 10089.70, the insurer and insured may  
26 agree to a complete settlement and release of all disputes related  
27 to the claim, including any claim the insured may have related to  
28 the insurer's conduct in handling the claim, provided the legal  
29 effect of the release is disclosed and fully explained to the  
30 claimant by the mediator.

31 Referral to mediation or the pendency of a mediation under this  
32 article is not a basis to prevent or stay the filing of civil litigation  
33 arising in whole or in part out of the same facts. Any applicable  
34 statute of limitations or limitation on the insured's right to sue as  
35 set forth in Section 2071 is tolled for the number of days  
36 beginning from the notification date to the insurer pursuant to  
37 Section 10089.72, until the date on which the mediation is either  
38 completed or declined, or the date on which the insured fails to  
39 appear for a scheduled mediation for the second time, or, in the

1 event that a settlement is completed, the expiration of any  
2 applicable three business day cooling off period.

3 *SEC. 6. Section 10106 of the Insurance Code is amended to*  
4 *read:*

5 10106. The Insurance Commissioner may modify ~~the a~~  
6 ~~disclosure statement~~ *statement* as contained in Section 10102,  
7 *10103, or 10103.5* only upon request of an insurer. The  
8 modification shall only be for the purpose of adding new or  
9 clarifying existing language describing any form of dwelling  
10 coverage offered by an insurer. The commissioner's authority to  
11 modify the disclosure statement shall be limited solely to  
12 determining the clarity and accuracy of the information provided  
13 in the disclosure to ensure that the disclosure accurately reflects a  
14 new or existing product. It is the intent of the Legislature that the  
15 disclosure form be kept as brief as clarity and accuracy permit.  
16 Any modification to the disclosure statement shall be approved in  
17 writing by the commissioner.

18 ~~SEC. 6.~~

19 *SEC. 7. Section 14028 of the Insurance Code is amended to*  
20 *read:*

21 14028. After a hearing the commissioner may deny a license  
22 unless the application makes a showing satisfactory to the  
23 commissioner that the applicant, if an individual, has not, or if  
24 the applicant is a person other than an individual, that its  
25 manager and each of its officers and partners have not:

26 (a) Committed any acts or crimes constituting grounds for  
27 denial of licensure under Section 480 of the Business and  
28 Professions Code.

29 (b) Been refused a license under this chapter or had a license  
30 revoked.

31 (c) Been an officer, partner, or manager of any person who has  
32 been refused a license under this chapter or whose license has  
33 been revoked.

34 (d) While unlicensed committed, or aided and abetted the  
35 commission of, any act for which a license is required by this  
36 chapter.

37 (e) Committed any act or crime constituting grounds for denial  
38 of license under Section 1668.

1     ~~SEC. 7.~~

2     *SEC. 8.* Section 14028.5 is added to the Insurance Code, to  
3 read:

4     14028.5. The commissioner may, without hearing, deny a  
5 license if the applicant has committed any act or crime  
6 constituting grounds for denial of license under Section 1669.

7     ~~SEC. 8.~~

8     *SEC. 9.* Section 14029 of the Insurance Code is amended to  
9 read:

10    14029. (a) The business of each licensee shall be operated  
11 under the active direction, control, charge, or management, in  
12 this state, of the licensee, if the licensee is qualified, or the person  
13 who has qualified to act as the licensee's manager, if the licensee  
14 is not qualified.

15    (b) No person shall act as a manager of a licensee until he or  
16 she has complied with each of the following:

17    (1) Demonstrated his or her qualifications by a written or oral  
18 examination, or a combination of both, if required by the  
19 commissioner.

20    (2) Made a satisfactory showing to the commissioner that he  
21 or she has the qualifications prescribed by Section 14025 and that  
22 none of the facts stated in Section 14028 or 14028.5 exist as to  
23 him or her.

24    (c) If the manager, who has qualified as provided in this  
25 section, ceases for any reason whatsoever to be connected with  
26 the licensee to whom the license is issued, the licensee shall  
27 notify the commissioner in writing 30 days from the cessation. If  
28 notice is given, the license shall remain in force for a reasonable  
29 length of time to be determined by the rules of the commissioner  
30 pending the qualifications, as provided in this chapter, of another  
31 manager. If the licensee fails to notify the commissioner within  
32 the 30-day period, his or her license shall be subject to  
33 suspension or revocation and may be reinstated only upon the  
34 filing of an application for reinstatement, payment of the  
35 reinstatement fee, if any is due, and the qualification of a  
36 manager as provided herein.

37    (d) Every manager shall renew his or her authority by  
38 satisfying the requirements of Article 8 (commencing with  
39 Section 14090).

1     ~~SEC. 9.~~

2     *SEC. 10.* Section 14035 of the Insurance Code is amended to  
3 read:

4     14035. A licensee shall, within 30 days after such change,  
5 notify the department of any change of his or her address and of  
6 any change in the officers or partners of such licensee. The  
7 principal place of business may be at a home or at a business  
8 address, but it shall be the place at which the licensee maintains a  
9 permanent office.

10    Applications, on forms prescribed by the commissioner, shall  
11 be submitted by all new officers or partners. The commissioner  
12 may suspend or revoke a license issued under this chapter if he or  
13 she determines that at the time the person became an officer or  
14 partner of a licensee, any of the facts stated in Section 14028 or  
15 14028.5 existed as to such person.

16     ~~SEC. 10.~~

17     *SEC. 11.* Section 14061.5 is added to the Insurance Code, to  
18 read:

19     14061.5. The commissioner may, without hearing, suspend or  
20 revoke a license issued under this chapter, or may issue a  
21 restricted license, if he or she determines that the licensee has  
22 committed any act or crime constituting grounds for denial of  
23 license under Section 14028.5.

24     ~~SEC. 11.~~

25     *SEC. 12.* Section 14062 of the Insurance Code is amended to  
26 read:

27     14062. The record of conviction, or a certified copy thereof,  
28 shall be conclusive evidence of the conviction, as that term is  
29 used in this article or in Section 14028 or 14028.5.

30     A plea or verdict of guilty or a conviction following a plea of  
31 nolo contendere is deemed to be a conviction within the meaning  
32 of this article or of Section 14028 or 14028.5. The commissioner  
33 may order the license suspended or revoked, or may decline to  
34 issue a license, when the time for appeal has elapsed, or the  
35 judgment of conviction has been affirmed on appeal or when an  
36 order granting probation is made suspending the imposition of  
37 sentence, irrespective of a subsequent order under the provisions  
38 of Section 1203.4 of the Penal Code allowing such person to  
39 withdraw his or her plea of guilty and to enter a plea of not

1 guilty, or setting aside the verdict of guilty, or dismissing the  
2 accusation, information, or indictment.

3 ~~SEC. 12.~~

4 *SEC. 13.* Section 15011 of the Insurance Code is amended to  
5 read:

6 15011. Before an application for a license is granted, the  
7 applicant shall meet all of the following:

8 (a) Be at least 18 years of age.

9 (b) Be a bona fide resident of the State of California.

10 (c) Must be of good character and shall not have committed  
11 acts or crimes constituting grounds for denial of licensure under  
12 Section 1668 or 1669.

13 (d) Shall have had sufficient experience, or special education  
14 or training, or both, in the handling of loss claims under  
15 insurance contracts as determined by regulations adopted by the  
16 commissioner, and is competent to transact business and  
17 discharge the responsibilities of a public insurance adjuster in  
18 such a manner as to safeguard the interests of the public.

19 (e) Must maintain an office in the State of California with  
20 public access during regular business hours.

21 (f) Pass an exam given by the commissioner in regard to  
22 property loss adjusting.

23 (g) Post a surety bond executed by a surety company  
24 authorized to do business in this state in the sum of ~~five thousand~~  
25 ~~dollars (\$5,000)~~ *fifty thousand dollars (\$50,000)*.

26 (h) Comply with any other qualifications as required by the  
27 commissioner.

28 *SEC. 14. Section 15014 of the Insurance Code is repealed.*

29 ~~15014. Examination for licensure as required in Section~~  
30 ~~15013 of this chapter is hereby waived for an applicant who~~  
31 ~~applies for a license within one year of the effective date of this~~  
32 ~~act and who, for a six-month period prior to the effective date of~~  
33 ~~this act, has been licensed under Chapter 1 (commencing with~~  
34 ~~Section 14000).~~

35 ~~SEC. 13.~~

36 *SEC. 15.* Section 15018.5 is added to the Insurance Code, to  
37 read:

38 15018.5. The commissioner may, without hearing, deny an  
39 application if the applicant has committed any act or been

1 convicted of a crime constituting grounds for denial of license  
2 under Section 1669.

3 ~~SEC. 14.~~

4 *SEC. 16.* Section 15027 of the Insurance Code is amended to  
5 read:

6 15027. (a) No licensee shall, directly or indirectly, act within  
7 this state as a public insurance adjuster without having first  
8 entered into a contract, in writing, on a form approved by the  
9 insurance commissioner and executed in triplicate by the public  
10 adjuster and the insured or a duly authorized representative. One  
11 copy of this contract shall be kept on file by the licensee,  
12 available at all times for inspection, without notice, by the  
13 commissioner or his or her duly authorized representative.

14 (b) The written contract between the licensee and the insured  
15 shall contain each of the following:

16 (1) Title of “Public Adjuster-~~Contract~~. *Agreement.*”

17 (2) The name, business name, license number, telephone  
18 number, and address of the licensee.

19 (3) The name and address of the insured.

20 (4) A description of the loss and its location, if applicable.

21 (5) The name of the insurer and the policy number, *if known.*

22 (6) The full salary, fee, commission, or other consideration the  
23 licensee is to receive for services under the contract.

24 (7) A description of the services to be provided to the insured.

25 (8) Signatures of the licensee and the insured.

26 (9) The date the contract was signed by the licensee and the  
27 date the contract was signed by the insured.

28 (10) Complete identification of the means by which the  
29 licensee has satisfied the requirements of Article 4 of this  
30 chapter.

31 (11) A statement of the compensation to the licensee,  
32 including the percentage and base to which the percentage  
33 applies.

34 (12) A statement that the insured has the right to rescind the  
35 contract within ~~10~~ *three* business days of signing it.

36 (c) A contract covered by this section shall not contain a  
37 contract term that does any of the following:

38 (1) Allows the licensee’s fee to be collected when money is  
39 due from an insurer, but not paid, or allows a licensee to collect

1 the entire fee from the first payment issued by an insurer, rather  
2 than as a percentage of each payment issued by an insurer.

3 (2) Requires the insured to authorize an insurer to issue a  
4 payment only in the name of the licensee.

5 (3) Imposes late fees or collection costs on the insured.

6 (d) No licensee shall solicit or attempt to solicit a client for  
7 employment during the progress of a loss-producing occurrence.

8 (e) No licensee or any other person or entity offering, for a fee,  
9 service regulated by this chapter shall solicit a client for  
10 employment or initiate any contract with a policyholder between  
11 the hours of 6 p.m. and 8 a.m.

12 (f) No licensee shall use any form of contract other than that  
13 approved by the commissioner and which contains each of the  
14 following:

15 (1) A provision allowing the client to rescind the contract by  
16 written notice sent or delivered to the licensee by midnight of the  
17 ~~10th~~ *third* business day after the day on which the client signs an  
18 agreement which complies with this section. Each copy of the  
19 contract shall contain a completed form, captioned "Notice of  
20 Cancellation," which shall be placed at the end of the contract  
21 and be separated from the remainder of the contract by a printed  
22 line. Nothing shall be printed on the reverse side of the notice  
23 form. The notice form shall be completed by the licensee, and  
24 shall contain in type of at least 10-point the following statement  
25 written in the same language, e.g., Spanish, as used in the  
26 contract:

27  
28 Notice of Cancellation

29  
30  
31 \_\_\_\_\_  
32 (Date of Contract)

33 You may cancel this contract, without any penalty or  
34 obligation, within ~~10~~ *three* business days from the above date.

35 If you cancel, any money or other consideration paid by you  
36 will be returned within ~~10~~ *five* business days following the  
37 receipt of your cancellation notice, and any security interest  
38 arising out of the transaction will be canceled.



To cancel this contract, mail or deliver a signed and dated copy of this cancellation notice, or any other written notice, or send a telegram to:

\_\_\_\_\_  
(name of public adjuster)

at

\_\_\_\_\_  
(address of public adjuster's place of business)

not later than midnight of \_\_\_\_\_  
(Date)

I hereby cancel this contract \_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Client's signature)

(2) The statement "WE REPRESENT THE INSURED ONLY" prominently displayed in at least 10-point type.

(3) A provision disclosing the percentage of the insured's claim, or other fee, that the licensee will charge for his or her services. The licensee shall obtain the initials of the insured next to this provision.

(4) A conspicuous statement in at least 10-point type in immediate proximity to the space reserved for the client's signature, as follows: "You may cancel this contract at any time before midnight of the ~~10th~~ *third* business day after the date of this contract. See the notice of cancellation form at the end of this contract for an explanation of this right."

(g) No licensee shall knowingly make any false report to his or her employer or divulge to any other person, except as he or she may be required by law to do so, any information acquired by him or her except at the direction of the employer or a client for whom the information is obtained.

(h) No licensee shall use a badge in connection with the official activities of the licensee's business.

(i) No licensee shall permit an employee or agent in his or her own name to advertise, engage clients, furnish reports, or present bills to clients, or in any manner whatever to conduct business for which a license is required under this chapter.

(j) Pursuant to subdivisions (a) and (c) of Section 15006, the commissioner shall have the authority to enforce the provisions of this chapter and prosecute violations thereunder committed by unlicensed persons or entities that hold themselves out or act as public insurance adjusters.

(k) For purposes of this section, “business day” shall have the same meaning given to that term in subdivision (e) of Section 1689.5 of the Civil Code, as in effect on the operative date of this statute.

(l) The contract and the notice of cancellation set forth in paragraph (1) of subdivision (f) shall be written in the same language, e.g., Spanish, as principally used in the negotiation of the contract.

(m) Within ~~10~~ *five* business days after a contract has been canceled, the licensee shall tender to the client any payments made by the client and any note or other evidence of indebtedness. The licensee is not entitled to compensation for services performed prior to cancellation. Any security interest shall be canceled upon cancellation of the contract.

(n) Notice of cancellation given by the client need not take the particular form specified in paragraph (1) of subdivision (f). Notice of cancellation, however expressed, is effective if it indicates the intention of the client not to be bound by the contract.

(o) Cancellation occurs when the client gives written notice of cancellation to the licensee at the address specified in the contract.

(p) Notice of cancellation, if given by mail, is effective when deposited in the mail properly addressed with postage prepaid.

(q) Until the licensee has complied with this section, the client may cancel the contract.

(r) The contracts shall be executed in triplicate. The licensee shall retain one original contract, and shall provide the insurer and the insured each with an original contract.

(s) The licensee shall provide the client with an original contract and notice of cancellation at the time the client signs the contract.

(t) Any confession of judgment or waiver of the provisions of this chapter shall be deemed contrary to public policy and shall be void and unenforceable.

1 (u) Prior to the signing of the contract, the licensee shall  
2 provide the insured with a separate printed disclosure document  
3 *in the following form* that bears the name and license number of  
4 the licensee ~~and does each of the following:~~

5 ~~(1) States that the insured is not required to hire a public~~  
6 ~~adjuster.~~

7 ~~(2) States that the insured has the right to communicate~~  
8 ~~directly with the insured's attorney, the insurer, the insurer's~~  
9 ~~adjuster, and the insurer's attorney, or any other person regarding~~  
10 ~~the settlement of the insured's claim.~~

11 ~~(3) States that the public adjuster is not a representative or~~  
12 ~~employee of the insurer.~~

13 ~~(4) States that the salary, fee, commission, or other~~  
14 ~~consideration is to be paid by the insured, not by the insurer.~~

15 ~~(5) Identifies completely the means by which the public~~  
16 ~~adjuster satisfied his or her continuing education requirement.~~

17 *"DISCLOSURE*

18 *There are three types of insurance adjusters that could be*  
19 *involved in the processing of your insurance claim. The*  
20 *definitions of the three types are as follows:*

21 *(1) Public adjusters means the insurance adjusters who do not*  
22 *work for your insurance company. They work for you, the*  
23 *insured, to assist in the preparation, presentation, and settlement*  
24 *of your claim. You hire them by signing a contract and agreeing*  
25 *to pay them a fee or commission based on a percentage of the*  
26 *settlement, or other method of compensation. Public adjusters*  
27 *are required to be licensed, bonded, and tested by the State of*  
28 *California to represent your interest only.*

29 *(2) Company adjusters means the insurance adjusters who are*  
30 *employees of your insurance company. They represent your*  
31 *insurance company and are paid by your insurance company.*  
32 *They will not charge you a fee.*

33 *(3) Independent Adjusters means the insurance adjusters who*  
34 *are hired on a contract basis by your insurance company to*  
35 *represent the company in the settlement of the claim. They are*  
36 *paid by your insurance company. They will not charge you a fee.*

37 *You have the right, but are not required, to use the services of*  
38 *a public adjuster in the preparation and handling of your*  
39 *insurance claim.*

1 *Public adjusters cannot solicit your business while the loss is*  
2 *underway, or between the hours of 6 p.m. and 8 a.m.*

3 *Your “Public Adjuster Agreement,” with a public adjuster*  
4 *representing you, should clearly indicate the amount of the fee*  
5 *you will be paying to your public adjuster. Your agreement, with*  
6 *this fee percentage, should be acknowledged by your initials on*  
7 *the “Public Adjuster Agreement.” The salary, fee, commission,*  
8 *or other consideration is to be paid by you (the insured), not the*  
9 *insurance company (insurer).*

10 *You have the right to, and may, communicate with your*  
11 *insurance company at any time if you feel the need during the*  
12 *claims process.*

13 *If you have any concerns or questions, the officers at the*  
14 *California Department of Insurance Consumer Hotline are there*  
15 *to help you. Please call them at 1-800-927-HELP (4357), or*  
16 *www.insurance.ca.gov.”*

17 (v) The licensee shall give the insured written notice of each  
18 of the following:

19 (1) That the insured has the right to rescind the contract within  
20 ~~10~~ *three* business days after the contract was signed.

21 (2) That if the insured exercises the right to rescind the  
22 contract, the rescission must be in writing and mailed or  
23 delivered to the licensee at the address in the contract.

24 (3) That if the insured exercises the right to rescind the  
25 contract, anything of value given by the insured under the  
26 contract will be returned to the insured within ~~10~~ *five* business  
27 days after the receipt by the licensee of the cancellation notice.

28 ~~(w) Within 10 business days after the time to rescind has~~  
29 ~~elapsed, the licensee shall give written notice to the insurer, its~~  
30 ~~adjuster, or its attorney that the licensee has entered into a written~~  
31 ~~contract with the insured.~~

32 *(w) After the three-day rescission period has lapsed, the public*  
33 *adjuster shall notify the insurer, its adjuster, or its attorney, that*  
34 *he or she has entered into a written contract with the insured.*

35 (x) If the licensee misrepresents or conceals a material fact  
36 from the insured prior to execution of the contract, the insured is  
37 entitled to rescind the contract without time limit.

38 ~~SEC. 15.~~

39 *SEC. 17.* Section 15027.1 of the Insurance Code is amended  
40 to read:

1 15027.1. (a) Notwithstanding subdivision (e) of Section  
2 15027, a licensee shall not solicit a contract of engagement under  
3 this chapter until seven calendar days have elapsed after the  
4 occurrence of a disaster.

5 (b) Subdivision (a) shall not apply if the licensee is contacted  
6 directly by the insured or the insured's representative.

7 (c) For the purposes of this section, "disaster" means a  
8 loss-producing event that damages or destroys more than 25  
9 dwellings, or a "disaster" as that term is defined in subdivision  
10 (b) of Section 1689.14 of the Civil Code.

11 ~~SEC. 16.~~

12 *SEC. 18.* Section 15027.5 is added to the Insurance Code, to  
13 read:

14 15027.5. Any person acting as a public adjuster who has  
15 executed a contract as described in Section 15027 is the agent of  
16 ~~the insured. The public adjuster shall make a written disclosure to~~  
17 ~~all other parties to the contract of any fees or compensation~~  
18 ~~received by or payable to the adjuster from any other party~~  
19 ~~connected to the claim adjustment, including contractors,~~  
20 ~~insurers, agents, and other vendors. The written disclosure shall~~  
21 ~~be made immediately upon execution of the contract as described~~  
22 ~~in Section 15027 the insured. No public adjuster shall receive~~  
23 ~~any fees or other compensation in excess of the amount, or~~  
24 ~~percentage, contracted for, whether from the insured or from any~~  
25 ~~other source. The adjuster shall disclose to the insured with~~  
26 ~~whom he or she contracted for his or her services any fees or~~  
27 ~~other compensation received by any party or any other source~~  
28 ~~connected to the claim adjustment, including any contractor,~~  
29 ~~insurer, or vendor. The insured may rescind the contract if the~~  
30 ~~adjuster fails to make any the required disclosure, or if the~~  
31 ~~adjuster has a dual agency.~~

32 ~~SEC. 17.~~

33 *SEC. 19.* Section 15028.7 is added to the Insurance Code, to  
34 read:

35 15028.7. (a) A public adjuster who receives, accepts, or  
36 holds any moneys on behalf of an insured towards the settlement  
37 of a claim for loss or damage shall deposit the moneys in an  
38 interest bearing escrow or trust account in a financial institution  
39 which is insured by an agency of the federal government in the  
40 adjuster's home state.

(b) All funds held in an escrow or trust account and interest accruing thereon shall be the property of the insured and shall be held pursuant to a written agreement signed by the insured and the public adjuster.

(c) A public adjuster who receives any fiduciary funds shall, within 10 business days of receipt, deposit the funds in the escrow account and provide a written statement to the insured showing the amount of funds received and deposited in escrow.

*SEC. 20. Section 15033 of the Insurance Code is amended to read:*

15033. No license shall be issued under this chapter unless the applicant files with the commissioner a surety bond executed by a surety company authorized to do business in the state in the sum of ~~five~~ *fifty* thousand dollars ~~(\$5,000)~~ *(\$50,000)* conditioned for the faithful and honest conduct of business by the applicant. The bond, as to its form, execution, and sufficiency of the surety shall be approved by the commissioner.

*SEC. 21. Section 15036 of the Insurance Code is amended to read:*

15036. In lieu of the surety bond required by this chapter there may be deposited with the State of California the sum of ~~five~~ *fifty* thousand dollars ~~(\$5,000)~~ *(\$50,000)* in cash, or evidence of deposit of the sum of ~~five~~ *fifty* thousand dollars ~~(\$5,000)~~ *(\$50,000)* in banks authorized to do business in this state and insured by the Federal Deposit Insurance Corporation, or investment certificates or share accounts in the amount of ~~five~~ *fifty* thousand dollars ~~(\$5,000)~~ *(\$50,000)* issued by a savings association doing business in this state and insured by the Federal Deposit Insurance Corporation, or evidence of a certificate of funds or share account of the sum of ~~five~~ *fifty* thousand dollars ~~(\$5,000)~~ *(\$50,000)* in a credit union as defined in Section 14000 of the Financial Code whose share deposits are guaranteed by the National Credit Union Administration or guaranteed by any other agency approved by the Department of Financial Institutions.

~~SEC. 18.~~

*SEC. 22. Section 15039.5 is added to the Insurance Code, to read:*

15039.5. The commissioner may, without hearing, suspend or revoke a license issued under this chapter if he or she determines

1 that the licensee has committed any act or crime constituting  
2 grounds for denial of license under Section 15018.5.

3 ~~SEC. 19.~~

4 *SEC. 23.* Section 15040 of the Insurance Code is amended to  
5 read:

6 15040. The record or conviction, or a certified copy thereof,  
7 shall be conclusive evidence of the conviction as that term is  
8 used in this article or in Section 15018 or 15018.5.

9 A plea or verdict of guilty or a conviction following a plea of  
10 nolo contendere is deemed to be a conviction within the meaning  
11 of this article or of Section 15018 or 15018.5. The commissioner  
12 may order the license suspended or revoked, or may decline to  
13 issue a license, when the time for appeal has elapsed, or the  
14 judgment of conviction has been affirmed on appeal or when an  
15 order granting probation is made suspending the imposition of  
16 sentence, irrespective of a subsequent order under the provisions  
17 of Section 1203.4 of the Penal Code allowing that person to  
18 withdraw his or her plea of guilty and enter a plea of not guilty,  
19 or setting aside the verdict of guilty, or dismissing the accusation,  
20 information, or indictment.

21 *SEC. 24.* Section 15056 of the Insurance Code is amended to  
22 read:

23 15056. Except as otherwise provided in this article, an  
24 expired license or branch office certificate may be renewed at  
25 any time within ~~five years~~ *one year* after its expiration on the  
26 filing of an application for renewal on a form prescribed by the  
27 commissioner, and the payment of a renewal fee in effect on the  
28 last preceding regular renewal date. If the license or certificate is  
29 renewed more than 30 days after its expiration, the licensee, as a  
30 condition precedent to renewal, shall also pay the delinquency  
31 fee prescribed by this chapter. Renewal under this section shall  
32 be effective on the date on which the application is filed, on the  
33 date on which the renewal fee is paid, or on the date on which the  
34 delinquency fee, if any, is paid, whichever last occurs. If so  
35 renewed, the license or certificate shall continue in effect through  
36 the date provided in Section 15044 which next occurs after the  
37 effective date of the renewal, when it shall expire if it is not again  
38 renewed.

1 Renewal of a license or certificate shall not prohibit the  
2 bringing of disciplinary proceedings for an act committed before  
3 the effective date of the renewal.

4 *SEC. 25. Section 15059 of the Insurance Code is amended to*  
5 *read:*

6 15059. A license or branch office certificate which is not  
7 renewed within ~~five years~~ *one year* after its expiration may not  
8 be renewed, restored, reinstated, or reissued thereafter.

9 The holder of the license or certificate may obtain a new  
10 license or certificate only on compliance with all of the  
11 provisions of this chapter relating to the issuance of an original  
12 license or certificate.